

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS,
LAKHIMPUR, NORTH LAKHIMPUR**

GR CASE NO: 2829 of 2017

Under Sections 354(B)/323/34 IPC.

State

-Versus-

1. Md. Abul Islam

2. Md. Nasrul Islam Accused Persons

**PRESENT : Sri Jayanta Kumar Saikia, AJS
Judicial Magistrate, First Class
Lakhimpur, North Lakhimpur.**

ADVOCATES APPEARED-

FOR THE PROSECUTION : Sri Debajit Dutta Borah .

FOR THE ACCUSED PERSONS : Md. Aminur Rahman

CHARGE FRAMED ON: 04.08.2018

EVIDENCE RECORDED ON : 13.05.2019

ARGUMENT HEARD ON : 13.05.2019

JUDGMENT DELIVERED ON: 13.05.2019.

JUDGMENT

- 1** The prosecution case in brief is that on 22.09.2017 at 10 P.M., the accused persons, namely, Md. Abul Islam and Md. Nasrul Islam criminally trespassed into the fishery of the informant, namely, Ashma Begum, and physically assaulted her. Hence, she lodged this case against the accused persons.
- 2** The Officer-in-charge, Laluk Police Station, on receipt of Ejahar, registered Laluk Police Station Case No.296/2017 under sections 325/354(B)/34 of IPC and endorsed the concerned IO for investigation. After completion of the investigation, the concerned I.O. submitted charge sheet against the accused persons, Md. Abul Islam and Md. Nasrul Islam under Sections of 354(B)/323/34 of IPC.
- 3** In due course, on receipt of summon, the accused persons appeared before the Court and the copies of relevant documents were furnished to him as per section 207 of CrPC. Having found a prima facie case against the accused persons under Sections 354(B)/323/34 of IPC, and charges are framed against the accused persons, Md. Abul Islam and Md. Nasrul, under Sections 354(B)/323/34 of IPC, which are read over and explained to them vide order dated 04.08.2018 to which they pleaded not guilty and claimed to be tried.
- 4** The prosecution, in support of its case, examined only one (01) witness. The Learned Assistant Public Prosecutor prayed to close the PW evidence as the principal witness, i.e., the informant and the victim of the case does not support the prosecution case.
- 5** The statement of the accused persons under section 313 of Cr.PC is dispensed with as there are no incriminating materials found against the accused persons. Defence side examined no witnesses.
- 6** I have heard the arguments advanced by the Learned counsels for both sides.

7 POINTS FOR DETERMINATION:-

(i) Whether, the accused persons, on 22.09.2017 at about 10 A.M., at Nadika under the jurisdiction of Laluk Police Station, in furtherance of their common intention, used criminal force to or assaulted Mustt. Ashma Begum, intending to outrage her modesty, with the intention of disrobing her to be naked and thereby committed an offence under Section 354(B) of IPC R/W Section 34 of IPC?

(ii) Whether, on 22.09.2017 at about 10 A.M., at Nadika under the jurisdiction of Laluk Police Station, in furtherance of their common intention, the accused persons voluntarily caused hurt to Mustt. Ashma Begum and her mother-in-law Mustt. Khatija Khatun and thereby committed an offence under Section 323 of IPC?

DISCUSSION, DECISION AND REASONS THEREOF

- 8** In the instant case, the prosecution side adduced the evidence of PW-1 (informant-victim), to establish their case but she has not supported the prosecution story.
- 9** The evidence of **PW1**, Mustt. Ashma Begum, who is the informant and victim of the case, reveals that the accused persons, namely, Md. Abul Islam and Md. Nasrul Islam are her brother-in-law. They are her neighbours. The PW1 further stated that in the year 2017, a verbal altercation took place between the accused persons and her, due to an incident of fishing. Due to which, she has lodged this case in misunderstanding. The PW1 further stated that they have amicably settled the dispute and she does not want to proceed with this case by adducing evidence.
- 10** The Learned Assistant Public Prosecutor prayed to close the PW evidence stating that the principal witness, who is the informant and the victim of the case has not supported the prosecution case. The informant and the victim (PW1) deposed in her testimony that she has no allegation against the accused persons. Her testimonies reveals that she has no objection, if the accused persons get acquittal in this case. The testimony of the aforesaid witness is

voluntary and her testimony reveals that at present, she has no objection, if the accused persons get acquittal in this case. There is nothing in the evidence incriminating the accused persons that they have committed an offence under section 354(B)/323/34 of IPC.

11 Situated thus, in my considered opinion, the prosecution side has failed to bring home the guilt of the accused persons offence under sections 354(B)/323/34 of IPC as the informant and victim of the case did not support the prosecution story.

ORDER

In the light of aforesaid discussions and reasons, it is seen that the prosecution side has failed to prove the guilt of the accused persons.

Accordingly, the accused persons, Md. Abul Islam and Md. Nasrul Islam are acquitted of the offence under Sections 354(B)/323/34 of IPC and they are set at liberty forthwith.

The bail bonds and surety of the accused persons shall remain in force for a period of 6 months from today as per amended CrPC.

Given under my hand and seal of this court on this 13th day of May, 2019.

Sri Jayanta Kumar Saikia
Judicial Magistrate, First Class,
Lakhimpur, North Lakhimpur.

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APPENDIX

PROSECUTION EXHIBITS:

NIL

DEFENCE EXHIBITS

NIL

PROSECUTION WITNESSES

PW-1: Mustt. Ashma Begum (informant-victim)

DEFENCE WITNESSES

NONE

MATERIAL EXHIBITS

NIL

Sri Jayanta Kumar Saikia
Judicial Magistrate, First Class,
Lakhimpur, North Lakhimpur